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Situation of human rights in the Democratic People's Republic of Korea

Note by the Secretary-General

The Secretary-General has the honour to present to the members of the General Assembly the report on the situation of human rights in the Democratic People's Republic of Korea submitted by the Special Rapporteur on the situation of human rights, Marzuki Darusman, in accordance with General Assembly resolution 67/181.

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Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea

Summary

In the present report, the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Marzuki Darusman, provides an overview of the latest development concerning human rights in the Democratic People's Republic of Korea since the submission of his previous report to the General Assembly (A/67/370).

I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea was established by the Commission on Human Rights pursuant to its resolution 2004/13 and has since been renewed annually. Pursuant to that resolution and subsequent resolutions of the General Assembly, the Special Rapporteur has submitted two reports every year: one to the Human Rights Council and the other to the Assembly. When presenting his last report to the Assembly (A/67/370), the Special Rapporteur called on Member States and the international community to undertake a comprehensive review of the many reports on the human rights situation in the Democratic People's Republic of Korea over the years, to assess the underlying patterns and trends, and to consider setting up a more detailed mechanism of inquiry.

2. In his stock-taking report of 1 February 2013 (A/HRC/22/57), submitted to the Human Rights Council at its twenty-second session, held from 25 February to 22 March 2013, the Special Rapporteur provided a comprehensive review of no fewer than 60 United Nations documents, including numerous reports and resolutions, on the situation of human rights in the Democratic People's Republic of Korea since 2004. The report identified nine underlying patterns of violations which pointed to the need for the establishment of an inquiry mechanism with adequate resources to investigate and more fully document the grave, systematic and widespread violations of human rights in the Democratic People's Republic of Korea. The Special Rapporteur recommended that the inquiry should examine the issues of institutional and personal accountability for such violations, in particular where they may amount to crimes against humanity.

3. Subsequently, the Human Rights Council, in paragraph 5 of resolution 22/13 of 21 March 2013, which the Council adopted without a vote at its twenty-second session, decided to establish, for a period of one year, a commission of inquiry to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, as outlined in paragraph 31 of the aforementioned 2013 stock-taking report of the Special Rapporteur (A/HRC/22/57). In the same resolution, the Council extended the mandate of the Special Rapporteur for one year and designated him to be one of the three members of the commission of inquiry. The present report provides an overview of the developments concerning human rights in the Democratic People's Republic of Korea since the Special Rapporteur last reported to the General Assembly.

II. Full-fledged international inquiry

4. There was a significant development in tackling the human rights situation in the Democratic People's Republic of Korea during the current reporting period. Echoing the calls by the United Nations High Commissioner for Human Rights,[1] the Special Rapporteur and many human rights non-governmental organizations,[2] the

[1] See "Pillay urges more attention to human rights abuses in North Korea, calls for international inquiry", 14 January 2013. Available from http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12923&LangID=E.

[2] See "The International Coalition to Stop Crimes against Humanity in North Korea urges Human Rights Council to create inquiry into mass atrocity crimes", 23 January 2013. Available from http://www.stopnkcrimes.org/bbs/board.php?bo_table=statements&wr_id=33.

international community decided to set up a full-fledged international inquiry to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea. Adoption by the Human Rights Council of resolution 22/13, by which the commission of inquiry was established, reinforces the unequivocal message sent by the General Assembly on 20 December 2012, when, for the first time, the Assembly adopted, without a vote, a resolution (Assembly resolution 67/181) on the human rights situation in the Democratic People's Republic of Korea. The Special Rapporteur stresses that it is critical to maintain the present level of support for the resolutions in the coming years, and for influential Member States to support the Special Rapporteur's engagement with the new leadership of the Democratic People's Republic of Korea.

5. As noted above, acting on the key findings and recommendations contained in the stock-taking report of the Special Rapporteur, the Human Rights Council, in its resolution 22/13, mandated the commission of inquiry to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea. With specific reference to paragraph 31 of the report, the Council, in paragraph 5 of the same resolution, decided that the scope of the investigations would include the violation of the right to food, the violations associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, violations of freedom of expression, violations of the right to life, violations of freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other States, with a view to ensuring full accountability, in particular where those violations might amount to crimes against humanity.

6. The Special Rapporteur welcomes the establishment of the commission of inquiry by the Human Rights Council and is honoured to serve as one of the three commissioners. The Special Rapporteur reiterates what he specified in paragraph 25 of his stock-taking report, namely, that many, if not all, of the nine patterns of violations identified in paragraph 6 of that report might amount to crimes against humanity, committed as part of systematic and/or widespread attacks against the civilian population. The Special Rapporteur notes that the prohibition against crimes against humanity is entrenched in international customary law and is considered to constitute a peremptory norm or *jus cogens*, meaning that the prohibition is accepted by the international community of States as a norm from which no derogation is ever permitted.

7. In paragraph 31 of his report, the Special Rapporteur recommended that the inquiry include:

(a) More detailed analysis of the grave, widespread and systematic violations of human rights through the collection and documentation of victims' testimonies and the accounts of survivors, witnesses and perpetrators;

(b) More detailed documentation of the most egregious violations of human rights, in particular closer examination of the widespread and systematic practice of torture and arbitrary detention, and the full range of violations committed in the prison camps, as well as the abduction of foreign nationals;

(c) Closer examination of the issue of discrimination in the systemic denial and violation of basic human rights and fundamental freedoms, including access to food, restrictions on freedom of movement and on freedom of expression, arbitrary arrest and torture;

(d) A detailed examination and legal analysis of whether crimes against humanity are being perpetrated in the Democratic People's Republic of Korea, as well as violation of the human rights of foreign nationals such as abductees;

(e) A closer examination of the issue of accountability in the Democratic People's Republic of Korea, given the problem of pervasive impunity and almost a decade of non-cooperation by the Government with the United Nations human rights mechanisms.

8. The commission of inquiry, which consists of Michael Donald Kirby (Chair), Sonja Biserko and the Special Rapporteur, began its operations in the first week of July 2013. More information about the work of the Special Rapporteur in the context of the commission of inquiry will be available in the oral update to be provided by the commission to the General Assembly in October 2013. The commission will submit its report, with findings and recommendations, to the Human Rights Council in March 2014.

9. The Special Rapporteur reiterates that increased scrutiny from the international inquiry affords a measure of protection, especially when coupled with the prospect of future criminal investigations and the deterrent effect that such a prospect may have on individual perpetrators. It remains, however, but a significant first step. In this context, it is crucial for the international community to demonstrate its determination to follow up on the findings and recommendations of the international inquiry and to keep urging the Government of the Democratic People's Republic of Korea to cooperate fully with the Special Rapporteur and the commission of inquiry.

III. Asylum seekers and the principle of non-refoulement

10. The refoulement of asylum seekers fleeing the Democratic People's Republic of Korea remains a pressing issue. On 30 May 2013, the Special Rapporteur issued a press release expressing "extreme concern" for the protection of nine defectors from the Democratic People's Republic of Korea, mostly children and reportedly all orphans, who were reportedly repatriated from the Lao People's Democratic Republic and sent to China on 27 May.[3] He stressed that no one should be refouled to the Democratic People's Republic of Korea, where he or she might face persecution or severe punishment, including torture and the death penalty, and that all of the concerned authorities had an urgent responsibility to ensure the protection of the defectors.[4] The Special Rapporteur also appealed to the authorities of the Democratic People's Republic of Korea to show transparency and grant independent access to the nine defectors, so that their status and well-being, could be determined.

11. In a communication dated 7 June to the Office of the United Nations High Commissioner for Human Rights, the Permanent Mission of the Lao People's Democratic Republic to the United Nations Office and other international organizations in Geneva stated that the nine individuals had been sent back,

[3] "North Korea: UN Special Rapporteur concerned for the wellbeing of nine young defectors". Available from http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13381&LangID=E.

[4] The United Nations High Commissioner for Refugees also issued a press release on 30 May 2013 calling on all States to adhere to the principle of non-refoulement as a core tenet of customary international law. The press release, entitled "UNHCR chief calls on states to respect non-refoulement after North Koreans deported from Laos", is available from http://www.unhcr.org/print/51a7510b9.html.

consistent with the country's immigration law. The Government of China later stated that the nine individuals had entered China on 27 May and left for the Democratic People's Republic of Korea on 28 May with lawful and valid travelling documents and visas, and that China had not received any request from either the Lao People's Democratic Republic or the Democratic People's Republic of Korea to facilitate their return.[5]

12. The Government of the Democratic People's Republic of Korea, in a communication dated 25 June 2013 to the Office of the United Nations High Commissioner for Human Rights, stated that the "teenagers" had returned and had taken part in a round-table talk broadcast by Korean Central TV on 21 June. The Government implied that there was no need to verify their safety and well-being and maintained that the Democratic People's Republic of Korea would continue to protect its citizens from human trafficking and kidnapping.

13. The Special Rapporteur is of the view that the Government of the Democratic People's Republic has not provided satisfactory answers with regard to the case of the nine young defectors who were returned, and that he still has concerns about the penalties and treatment they could face after their return. He reiterates the appeal contained in his 30 May 2013 press release to the authorities of the Democratic People's Republic of Korea to show transparency and to give the nine individuals access to an independent actor who could determine their status and well-being.

14. Another notable trend during the reporting period concerns tightened border control and harsher punishment against those fleeing the country. Reports suggest that following the death of the leader, Kim Jong-il, the new Government under Kim Jong-un has enacted a shoot-on-sight decree to crack down on unauthorized crossing of the northern border into China.[6] This, together with the increased number of incidents of refoulement, partly explains the significant decrease in the number of individuals from the Democratic People's Republic of Korea who have reached the Republic of Korea since 2012. According to figures available on the website of the Ministry of Unification, Republic of Korea, a total of 2,706 individuals arrived in the Republic of Korea in 2011; the number dropped to 1,509 in 2012. Moreover, in the first five months of 2013, the number of individuals from the Democratic People's Republic of Korea who reached the Republic of Korea fell further, to 596. This represents a reversal of the trend of steady increase in the number of annual arrivals since 1998, when 947 individuals from the Democratic People's Republic of Korea had managed to enter the Republic of Korea.[7]

15. In the Democratic People's Republic of Korea, it is a criminal offence for citizens to leave the country without State permission. Article 62 of the Criminal Code bans citizens from travelling to another country without State permission, which is in clear violation of the obligation of the Democratic People's Republic of

[5] In a communication dated 2 July 2013 from the Permanent Mission of China to the United Nations Office and other international organizations in Geneva addressed to the Office of the United Nations High Commissioner for Human Rights.

[6] See, for example, Human Rights Watch World Report 2013: North Korea, available from http://www.hrw.org/world-report/2013/country-chapters/north-korea?page=3; and Amnesty International Annual Report North Korea 2013, available from http://www.amnestyusa.org/research/reports/annual-report-north-korea-2013?page=show.

[7] The figures are available on the website of the Ministry of Unification, Republic of Korea (http://eng.unikorea.go.kr/CmsWeb/viewPage.req?idx=PG0000000166) (in Korean only).

Korea under article 12 (2) of the International Covenant on Civil and Political Rights,[8] which stipulates, inter alia, that "(E)veryone shall be free to leave any country, including his own". There are numerous reports and testimonies of persons being sentenced to up to five years in a prison camp and, sometimes, to death for leaving the country without permission. Therefore, the customary principle of international law of non-refoulement, that is, the obligation not to return asylum seekers or refugees to a place where their life or liberty would be at risk, clearly applies to individuals from the Democratic People's Republic of Korea who have left the country without permission. It applies to those who flee the country owing to persecution as well as to those who leave for economic or other reasons without permission. The Special Rapporteur reminds all States of their non-refoulement obligations under international law and reiterates his calls to the neighbouring countries of the Democratic People's Republic of Korea to abstain from forcibly returning persons seeking international protection.

IV. "Military first" versus the right to food

16. During the reporting period, in December 2012, the Democratic People's Republic of Korea launched a long-range rocket.[9] On 12 February 2013, the country conducted its third nuclear test, which provoked significant international attention. In response, the Security Council, on 7 March 2013, unanimously adopted resolution 2094 (2013) to strengthen and expand the scope of United Nations sanctions against the Democratic People's Republic of Korea by targeting the illicit activities of diplomatic personnel, the transfer of cash in bulk, and the country's banking relationships.[10] The aftermath of the nuclear test also led to increased tension in the region and beyond, as well as the suspension of operations in the Kaesong industrial complex, run jointly with the Republic of Korea, affecting some 53,000 employees of the Democratic People's Republic of Korea working in the complex.[11] The allocation of limited national resources by the State prioritizes militarization under the Songun "military first" policy. This has significant consequences for food security, as suggested in an early 2013 report that a famine had hit the grain-growing Hwanghae region in 2012 and may have killed thousands of people.[12]

17. "Democratic People's Republic of Korea: humanitarian overview", released by the United Nations in March 2013, stated that the majority of the people, about

[8] See General Assembly resolution 2200 A (XXI), annex.

[9] On 22 January 2013, the Security Council adopted resolution 2087 (2013), in which it condemned the rocket launch.

[10] Summary by the Department of Public Information of the United Nations Secretariat of the 6932nd meeting (AM) of the Security Council, held on 7 March 2013 (see SC/10934).

[11] According to the Yonhap News Agency, the suspension is estimated to have cost the 123 companies of the Republic of Korea US$ 942 million in damages. No data are available on the loss of wages of the employees of the Democratic People's Republic of Korea. As of 24 July, the two sides had held several rounds of meetings about reopening the complex but they have yet to reach an agreement. See "Koreas to square off on safeguards for Kaesong park", Yonhap News Agency, 24 July 2013. Available from http://english.yonhapnews.co.kr/national/2013/07/24/68/0301000000AEN20130724003600315F.html.

[12] See "Famine hit N. Korea's rice basket in 2012, report says", Reuters, 7 February 2013, available, through ReliefWeb, from http://www.trust.org/item/?map=famine-hit-nkoreas-rice-basket-in-2012-report-says/; and Louisa Lim, "Hunger still haunts North Korea, citizens say", NPR News, 10 December 2012, available from http://m.npr.org/story/166760055.

16 million, remain chronically food-insecure and highly vulnerable to production shocks. About 2.8 million people in the most food-insecure provinces need assistance in obtaining regular nutritious food. The National Nutrition Survey 2012 stated that malnutrition rates continued to be of great concern, with a chronic malnutrition rate among children under age 5 at 27.9 per cent and with 4 per cent acutely malnourished. In his report to the Human Rights Council of 13 February 2012, the Special Rapporteur raised his concern in this regard and called on the Government to allocate more resources to agriculture than to its military sector (A/HRC/19/65, para. 26).

18. Evidence suggests that the Government has continued its policy of pursuing militarization at the expense of the majority of people's right to food. The Special Rapporteur emphasizes that the primary obligation to feed people lies with the State, which must take all measures necessary to rectify existing flaws in the production and distribution system which have contributed for the shortage of food. He also underscores the importance of meeting the food shortfall by ensuring that an adequate quantity of food of good quality is available through additional imports by the Government, supported by the international agencies and bilateral donors. In this context, the Special Rapporteur wishes to highlight that members of the international community have both a joint and an individual responsibility to provide humanitarian assistance in times of emergency. States should refrain at all times from instituting food embargoes or similar measures that endanger the conditions needed for food production and access to food in other countries. Food should never be used as an instrument of political and economic pressure.

19. The Special Rapporteur recalls that the violation of the right to food in the Democratic People's Republic of Korea has already been extensively documented by the United Nations. The question of access to food, food distribution and humanitarian food assistance is dealt with in all resolutions of the Human Rights Council and the General Assembly and all reports of the Special Rapporteur and the Secretary-General. Their findings and recommendations are documented in the Special Rapporteur's stock-taking report (see A/HRC/22/57, annex I, sect. A, paras. 1-20). The violation of the right to food is also one of the nine areas of violations being investigated by the commission of inquiry.

V. Arbitrary detention, prison camps and enforced disappearances

20. Observers and civil society reports suggest that the human rights situation in the Democratic People's Republic of Korea has deteriorated under the leadership of Kim Jong-un. In particular, there are signs of heightened social control and of increased use of public security forces as a means to stabilize the new regime.[13] This in turn exacerbates the abuse of power by local officials and law enforcement agents. Human rights groups have documented the widespread use of arbitrary arrests and detention by corrupt officials to extort bribes in the recent crackdown on economic "crimes",[14] such as engaging in private trading activities and possessing

[13] See Soo-Am Kim, "Policy environment and directions for North Korean human rights", *International Journal of Korean Unification Studies*, vol. 21, No. 2 (2012), pp. 33-60, at p. 41.

[14] See "North Korea: stop crackdown on economic 'crimes': new testimony details harsh punishments for cell phones, outside contact, market activity", Human Rights Watch, 15 May

DVDs and CDs of dramatic and music productions from abroad. As the Government tightens its control over people's daily lives, more individuals in the Democratic People's Republic of Korea are forced to pay bribes in order to avoid punishment.

21. On 3 April 2012, the International Coalition to Stop Crimes against Humanity in North Korea (ICNK),[15] a coalition of some 40 international non-governmental organizations, submitted a petition for relief[16] to the special procedures mandate holders of the Human Rights Council on the use of labour camps for political prisoners and the pattern of human rights violation committed in these prison camps. These were detailed extensively in the petition, entitled "The situation of detainees in gulag system (*Kwan-li-so*) of the Democratic People's Republic of Korea".[16] According to the information received, labour camps for political prisoners have been in operation since the 1950s in the Democratic People's Republic of Korea. It is reported that individuals who have committed or are perceived to have committed a political crime are involuntarily or forcibly taken to an interrogation facility, detained and typically subjected to torture until a confession is obtained. After being declared guilty by the State Security Protection Agency, the detainee is either executed immediately or transferred to a prison camp. Throughout their detention, prisoners are reportedly not given a trial and are held incommunicado without any information concerning the charges against them or the length or place of detention. According to reports, detainees have been held in harsh conditions. It has been alleged that prisoners, including children, have been subjected to forced labour, and that torture and public executions are common within the camps. Reports also suggest that women have been subjected to sexual exploitation, rape, forced abortion and killing. In at least four camps, the majority of prisoners reportedly remain in custody until their death. Over the past few decades, it is estimated that at least 400,000 prisoners have perished in the camps.[17]

22. Based on that petition, on 3 October 2012, five mandate holders — namely, the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; and the Working Group on Enforced or Involuntary Disappearances — sent a joint allegation letter to the Government of the Democratic People's Republic of Korea on the alleged use of labour camps for political prisoners. After having received no response from the Government, the mandate holders issued a press release in February 2013 calling for an international inquiry into the human rights abuses in the Democratic People's Republic of Korea, which would shed light on the country's extensive political prison camp system.[18]

23. The prison camp system is believed to comprise at least six camps, each one covering 400 square miles or more: (a) Kaechon, South Pyongan Province (camp 14); (b) Yodok, South Hamgyong Province (camp 15); (c) Hwasong, North Hamgyong

2013. Available from http://www.hrw.org/news/2013/05/15/north-korea-stop-crackdown-economic-crimes.

[15] See http://www.stopnkcrimes.org/about_01.php.

[16] Available from http://www.fidh.org/The-International-Coalition-to.

[17] See document A/HRC/22/67 and Corr.1 and 2, sect. II.B, p. 114, case No. PRK 1/2012.

[18] "UN experts call for an international inquiry into North Korea human rights abuses", 28 February 2013. Available from http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13058&LangID=E.

Province (camp 16); (d) Bukchang, South Pyongan Province (camp 18); (e) Hoeryong, North Hamgyong Province (camp 22); and (f) Congjin, North Hamgyong Province (camp 25). It is estimated that these camps currently hold between 150,000 and 200,000 prisoners.[19] Prisoners are reportedly given no access to health care and very limited food rations, resulting in near starvation. They are allegedly commonly forced to work seven days a week in mining, logging, farming or manufacturing — with rest only one day per month and on the three national holidays — and sometimes in dangerous conditions, causing some prisoners to lose toes, fingers or limbs or to develop physical deformities.

24. One particularly worrying practice, widely documented by the United Nations, is detention due to guilt by association: when a person is punished for a political or ideological crime, members of his or her family are also punished. Up to three generations of family members of detainees are sent on this basis to the camps in the Democratic People's Republic of Korea. Detainees are often not told the reasons for their detention or whether they will ever be released. No information regarding their whereabouts is provided to friends, neighbours, co-workers or more distant relatives who enquire about them.

25. In its report to the Human Rights Council at its twenty-second session, the Working Group on Enforced or Involuntary Disappearances expressed serious concern regarding the allegations concerning the alleged use of labour camps for political prisoners.[20] The Working Group noted that, since its establishment, it had transmitted 20 cases to the Government of the Democratic People's Republic of Korea: all remain outstanding.[21]

26. At its sixty-fifth session held in November 2012, the Working Group on Arbitrary Detention adopted an opinion (No. 47/2012) concluding that Kang Mi-ho, Kim Jeong-nam and Shin Kyung-seop were arbitrarily detained, in violation of articles 9 and 10 of the Universal Declaration of Human Rights[22] and articles 9 and 14 of the International Covenant on Civil and Political Rights.[23] The two cases are consistent with the continuing pattern of systematic, widespread and grave violations of human rights, involving the use of political prison camps, as documented in numerous United Nations reports.[24]

27. The first case concerns Kang Mi-ho and her 11-year-old son Kim Jeong-nam, who were allegedly arrested by the National Security Agency in May 2011 and taken to No. 15 Kwanliso at Yodok, also known as camp 15, in the Democratic People's Republic of Korea. Their detention was allegedly linked to the activities of Kang's brother, who defected and is a famous dissident working as a reporter for *Chosun Ilbo*, a large newspaper in the Republic of Korea. The source of the complaint[25] submitted that the reason for the detention of Kang and her son was

[19] A/HRC/22/57, annex I, para. 53.

[20] A/HRC/22/45, para. 113.

[21] A/HRC/22/45 and Corr.1, para. 112. One additional case was transmitted to the Government during the ninety-ninth session of the Working Group in March 2013; further information is available in a post-sessional document of the Working Group dated 10 June 2013 (A/HRC/WGEID/99/1), sect. III.

[22] General Assembly resolution 217 A (III).

[23] See A/HRC/WGAD/2012/47 dated 13 December 2012 (advance unedited version), para. 23.

[24] Documents A/HRC/22/57, A/HRC/16/58, A/66/322 and A/67/370, for example.

[25] The source of the information cannot be disclosed owing to the methods of work of the Working Group.

linked to the activities of her brother, who allegedly had sent her money through a "Korean-Chinese broker" between early 2008 and mid-2011. According to the source, the broker contacted the brother in July 2011 and explained that he had temporarily been imprisoned by the National Security Agency and that he could not find Ms. Kang.

28. The second case concerns Shin Kyung-seop, who was allegedly arrested in 1965 and taken to camp 14 together with his parents and two brothers. It is alleged that, owing to his brother's defection during the Korean War, Shin's entire family has spent 40 years in camp 14. Remaining under the strict surveillance of the camp's guards, Mr. Shin was allowed to marry; he and his wife had two children. In April 1996, Mr. Shin's wife and their older son were caught while trying to escape the camp. The source of the complaint contended that, as a result, Shin and his younger son were taken to an underground prison, where they were allegedly tortured. Shin's leg bones were broken and his right leg faced outward in an unnatural way. It was reported that Mr. Shin's health condition was critical. In both cases, the Working Group found that the detainees were detained arbitrarily and it requested their immediate release. It reminded the Democratic People's Republic of Korea of its duties to comply with international human rights obligations not to detain arbitrarily, to release persons who were arbitrarily detained, and to provide compensation to them.

29. The Working Group also recalled that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law might constitute crimes against humanity. It noted that the duty of complying with international human rights obligations that were peremptory and *erga omnes* norms, such as the prohibition of arbitrary detention, rested not only on the Government but on all officials, including judges, police and security officers, and prison officers with relevant responsibilities (A/HRC/WGAD/2012/47, para. 22).

30. The Special Rapporteur recalls that he raised the case of Shin Sook Ja, Oh Hae Won and Oh Kyu Won in his 13 September 2012 report to the General Assembly (see A/67/370, sect. IV.C, paras. 31-38), citing it as an example of a practice of the Democratic People's Republic of Korea whereby citizens are held in prison camps on the basis of guilt by association. The latest cases addressed by the Working Group and the Government's statement that it "categorically rejects the cases ... as one of the anti-DPRK attempts" (A/HRC/WGAD/2012/47, para. 10) underline the consistent pattern of gross human rights violations, which has continued with impunity. The Special Rapporteur reiterates that grave human rights violations in the prison camps — (or) even the mere existence of such camps — under slave-like conditions for political prisoners, may qualify as crimes against humanity (A/HRC/22/57, para. 28).

VI. Discrimination

31. Discrimination has a cross-cutting impact on all of the human rights issues addressed in the present report, often leading to disproportionate or specific effects of human rights violations and a multiplicity of cases of discrimination against women, children, people living with disabilities and returnees. The United Nations reports and resolutions have documented several patterns of discrimination in the

Democratic People's Republic of Korea in particular (see A/HRC/22/57, annex I, para. 59):

(a) Division of society into three different groups of allegiance to the regime: those close to the regime (the core mass), the group in the middle (the basic mass) and those considered hostile to the regime (the complex mass) (see A/60/306, A/61/349 and A/64/224; and A/HRC/7/20 and A/HRC/10/18), which affects the citizen's level of enjoyment of human rights and fundamental freedoms, including access to food;

(b) Discrimination against women, children, the elderly and persons with disabilities, including the disproportionate effect of malnutrition on these populations and specific violations suffered by individuals in each of these categories;

(c) Violations specifically affecting those who have been repatriated to the Democratic People's Republic of Korea and their families.

32. A report released in June 2013, based on a series of interviews with 60 female defectors who had left the Democratic People's Republic of Korea between 2010 and 2012, documented the treatment of women in detention, and the practice of forced abortion and infanticide.[26] Citing a former official of the People's Safety Agency in the Democratic People's Republic of Korea, it also contained disturbing allegations that "there is an island with 'Hospital 83' (under administration of South Hamgyong Province) to which disabled persons are being sent for medical tests such as dissection of body parts, as well as tests of biological and chemical weapons".[27]

33. The report further stated that:

> (t)he island where disabled people are sent is reportedly completely secluded. Apart from the island, our interviewee reported of a long-term reform through labour detention (correction centre), Gyohwaso No. 1 in Kaechon where disabled are often sent to. Another person with a police background in North Korea reported that a similar institution practicing chemical and biological tests on disabled and criminals is in a secluded mountainous area of North Hamgyong Province, from where two healthy people (criminals) allegedly escaped, spreading information about the tests.[28]

34. The Special Rapporteur strongly condemns any inhumane practice targeting persons with disabilities. He underlines that inhumane acts intentionally causing great suffering, or serious injury to body or to mental or physical health, committed as part of systematic and/or widespread attacks against the civilian population, may amount to international crimes. He fully supports the call by civil society for the commission of inquiry to investigate and document information on the existence of special detention facilities for persons with disabilities and the allegations that they are being used for chemical and biological tests.

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[26] Joanna Hosaniak (Citizens' Alliance for North Korean Human Rights), *Status of Human Rights in the Context of Socio-Economic Changes in the DPRK* (Seoul, Life and Human Rights Books, 2013), launched on 28 June 2013.

[27] Ibid., p. 42.

[28] Ibid.

VII. Recommendations

35. The Special Rapporteur calls on the Government of the Democratic People's Republic of Korea to cooperate fully with the mandates of the Special Rapporteur and the commission of inquiry and emphasizes the State's obligations to ensure the overall protection and promotion of human rights in the country, as provided under international human rights instruments. He calls on the Government to cooperate with the Office of the United Nations High Commissioner for Human Rights.

36. The Special Rapporteur calls on the international community to maintain its unanimous support for protecting the human rights of all in the Democratic People's Republic of Korea and to continue to demonstrate its determination to address the issue of accountability for the grave, systematic and widespread human rights violations, given the problem of pervasive impunity and almost a decade of non-cooperation by the Government with most United Nations human rights mechanisms.

37. The Special Rapporteur calls on all countries where people of the Democratic People's Republic of Korea are seeking refuge or through which they are transiting, to protect such people, to treat them humanely and to adhere to the principle of non-refoulement by abstaining from returning them to the Democratic People's Republic of Korea. He calls on the Government to share information on the status and treatment of persons who were returned to the country, including the nine youths from the Democratic People's Republic of Korea who were returned in May 2013.

38. The Special Rapporteur reiterates his call to the Government to address the critical food situation in the country and to rethink its approach to the "military first" policy in order to reallocate enough resources to improve the living standard of the people in the country. He also stresses the need for the international community to provide continued humanitarian support to the people of the Democratic People's Republic of Korea.

39. The Special Rapporteur calls on the Government to release immediately all persons who have been held in prison camps on the basis of guilt by association, including Kang Mi-ho, Kim Jeong-nam and Shin Kyung-seop. The Special Rapporteur renews his call to the Government to release Shin Sook Ja and her two daughters.

40. The Special Rapporteur urges the Democratic People's Republic of Korea to halt all practices of discrimination against women, children, the elderly, persons with disabilities and those belonging to the group considered hostile to the regime. The Special Rapporteur urges the Government to immediately clarify its treatment of persons with disabilities, in particular concerning the allegations that they were used for testing biological and chemical weapons.